

McGREGOR W. SCOTT  
United States Attorney  
Eastern District of California

KIMBERLY GAAB  
Assistant U.S. Attorney  
2500 Tulare Street  
Suite 4400  
Fresno, California 93721  
Telephone: (559) 497-4000  
Facsimile: (559) 497-4099

SUE ELLEN WOOLDRIDGE  
Assistant Attorney General  
United States Department of Justice  
Environment & Natural Resources Division

CHARLES R. SHOCKEY, Attorney  
D.C. Bar #914879  
United States Department of Justice  
Environment and Natural Resources Division  
501 "I" Street, Suite 9-700  
Sacramento, CA 95814-2322  
Telephone: (916) 930-2203  
Facsimile: (916) 930-2210  
Email: [charles.shockey@usdoj.gov](mailto:charles.shockey@usdoj.gov)

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION

FRIENDS OF YOSEMITE VALLEY, )  
et al., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
DIRK KEMPTHORNE, in his )  
official capacity as Secretary of )  
the Interior, et al., )  
 )  
Defendants. )

Case No. CV-F-00-6191 AWI DLB

DECLARATION OF CASSIE  
THOMAS IN SUPPORT OF  
DEFENDANTS' OPPOSITION  
TO PLAINTIFFS' MOTION  
FOR RELIEF

DATE: October 10, 2006  
TIME: 1:30 p.m.  
PLACE: Courtroom 3  
JUDGE: Hon. Anthony W. Ishii

I, Cassie Thomas, declare as follows:

1. I currently serve as an Outdoor Recreation Planner for the National Park Service's  
(NPS) Rivers, Trails and Conservation Assistance and Hydropower Recreation Assistance

1 Programs in the Alaska Regional Office of the National Park Service in Anchorage. I have 15  
2 years experience at NPS in Resource Planner and Outdoor Recreation Planner positions. In my  
3 current role, I am responsible for coordinating regional training, policy review, and GPRA goal  
4 reporting for the 13 wild and scenic rivers (WSRs) NPS administers within the Alaska Region.

5 2. I have 18 years experience with Wild and Scenic Rivers Act (WSRA) issues,  
6 including serving as the Massachusetts Governor's representative on a federal advisory  
7 committee for a Congressional Wild and Scenic Rivers study; NPS coordinator and planning  
8 team member for four WSR studies in the northeastern United States; Partnership Wild and  
9 Scenic River manager; Alaska Regional Wild and Scenic Rivers coordinator; NPS Wild and  
10 Scenic Rivers Task Force member; and Interagency Wild and Scenic Rivers Coordinating  
11 Council ("Council") founding member. Consisting of representatives from the four federal  
12 agencies that manage WSRs (NPS, BLM, FWS, and USFS), the Council was chartered in 1995  
13 by the Department of the Interior and the Department of Agriculture to improve interagency  
14 coordination in administering the WSRA, thereby improving service to the public and enhancing  
15 protection of important river resources.

16 3. I have authored or co-authored three detailed technical papers for the Council:  
17 *Protecting Resource Values on Non-federal Lands, Wild and Scenic Rivers and the Use of*  
18 *Eminent Domain*, and *The Wild and Scenic River Study Process*. These papers, and others  
19 produced by the Council, are routinely used by the federal river managing in administering wild  
20 and scenic rivers. Technical papers prepared by the Council have been cited by the federal courts  
21 as authoritative guidance for interpreting the meaning of the statutory provisions of WSRA.

22 4. I received a B.S. in Biology from Principia College in 1977, a M.Sc. in Oceanography  
23 from Dalhousie University in 1981, and a M.S.L. in Environmental Law from Vermont Law  
24 School in 1984.

25 5. I have read the Plaintiffs' Memorandum in Support of Motion for Relief and the  
26 supporting declaration of Glenn Haas. This declaration is prepared in response to assertions  
27 made by both plaintiffs and Dr. Haas, particularly in relation to wild and scenic river planning.

28 6. In my capacity working with wild and scenic river managers throughout the country, I

1 need to object to the statements of both the plaintiffs and Glenn Haas that activities within the  
2 Merced River corridor cannot be allowed to proceed in the absence of a comprehensive  
3 management plan (CMP). To the contrary, there are several provisions of WSRA that require the  
4 protection and enhancement of river values and free-flow even without a CMP in place.


5 7. One of these provisions is Section 7(a) of WSRA. Section 7(a) applies to all proposed  
6 federal water resources projects, (i.e., federally sponsored, permitted, or funded activities  
7 affecting the bed or banks of a designated wild and scenic river), including activities upstream  
8 and downstream of wild and scenic rivers that could invade the designated reach or unreasonably  
9 diminish its scenic, recreational, or fish and wildlife values. No bed- or bank-disturbing activities  
10 within designated rivers can be allowed if Outstandingly Remarkable Values (ORVs) or water  
11 quality would be adversely affected. While CMPs may be useful reference documents for river  
12 managers to use in identifying site-specific ORVs that could be affected by water resource  
13 projects, CMPs are not the only source of such information. Section 7 of WSRA does not  
14 predicate completion of the Section 7 review process for water resources projects on the  
15 existence of a CMP. Certainly, it is sound practice for CMPs to establish procedures and reiterate  
16 guidance for Section 7 determinations. However, the NPS administers Section 7 on rivers that  
17 have no management plans (including a dozen “2(a)(ii)” wild and scenic rivers designated by the  
18 Secretary of the Interior and managed by States).

19 8. River management decisions are also guided by the wild and scenic river  
20 classifications, whether or not there is a CMP in place. While a comprehensive plan may help  
21 specify in advance the general amount and location of additional development (e.g., facilities  
22 such as roads, boat launches, and campgrounds) that is intended throughout the river corridor,  
23 the absence of a CMP does not mean that the WSRA’s requirements are ignored in site- or  
24 project-specific decision documents. Under NEPA, all such documents should refer to the river’s  
25 classifications in assessing whether proposed new facilities are compatible with its “wild,”  
26 “scenic,” or “recreational” classification, and should also assess impacts to ORVs, water quality,  
27 and the river’s free-flowing character.

28 9. In addition, WSRA directs us in Section 10(a) to administer a wild and scenic river “in

1 such manner as to protect and enhance the values which caused it to be included in said system  
2 [the National Wild and Scenic River System] without, insofar as is consistent therewith, limiting  
3 other uses that do not substantially interfere with public use and enjoyment of these values." This  
4 section has been consistently interpreted by river planners and managers to make public use and  
5 enjoyment a priority, as long as it does not adversely impact ORVs, water quality, and the river's  
6 free-flowing character. The duty to comply with this provision of WSRA exists in the absence of  
7 a CMP.

8 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
9 September 20, 2006, at Anchorage, Alaska.

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12 Cassie Thomas  
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